RESPONSE UNDER 37 C.F.R. §1.116
- EXPEDITED PROCEDURE-
EXAMINING GROUP 2168

Docket No.: E0295.70190US00
(PATENT)

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicant:	Michael Kilian et al.
Serial No.:	10/731,790
Confirmation No.:	4910
Filed:	December 9, 2003
For:	METHOD AND APPARATUS FOR DATA RETENTION IN A STORAGE SYSTEM
Examiner:	J. D. Wong
Art Unit:	2168

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Dated: May 21, 2008 Signature: Alex Mackenzie (Alex MacKenzie)

SUPPLEMENTAL REQUEST FOR RECONSIDERATION

Mail Stop AF
Commissioner for Patents
P.O. Box 1450
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Dear Sir:

Is response to the Final Office Action mailed November 27, 2007, Applicants respectfully request reconsideration. Applicants submitted an Amendment in response to the Final Office Action on February 22, 2008. In response, the Examiner mailed an Advisory Action on March 12, 2008, which indicated that the proposed amendment to claim 75 made in Applicants' response of February 22, 2008 was not entered and which included comments in response to the arguments made in Applicants' amendment of February 22, 2008.

Applicants submit this supplemental response, along with an RCE, to request entry of the amendment to claim 75 made in Applicants' previous response and to respond to comments in the advisory action and request clarification on several points made by the Examiner in the Final Office Action of November 27, 2007 and the Advisory Action of March 12, 2008. Applicants respectfully request that the Examiner provide clarifying explanations on the points raised below in the next Office Action.

Rejections Under 35 U.S.C. §101

The Final Office Action rejects claims 70-78 under 35 U.S.C. §101, asserting that these claims are directed to non-statutory subject matter.

1. Claims 70-74

In Applicants' response mailed February 28, 2008, Applicants noted that claims 70-74 are directed to at least one computer readable medium encoded with instructions that, when executed, allow the instructions' functionality to be realized, and that MPEP §2106.01 states that a claimed computer-readable medium encoded with a computer program is statutory.

The Office Action responds, asserting that the, "the recitation of MPEP 2106.01 is out of context and ineffective because it does not respond to the issue of the computer readable media being defined as transmission media." **The Office Action appears to assert that Applicants' specification, in paragraph 20, defines a computer readable medium as a transmission medium**.

Applicants respectfully disagree. The cited portion of Applicants' specification states, "[a]s used herein, a "network" (e.g., network 103) is a group of two or more devices interconnected by one or more segments of transmission media on which communications may be exchanged between the devices. Each segment may be any of a plurality of types of transmission media, including one or more electrical or optical wires or cables made of metal and/or optical fiber, air (e.g., using wireless transmission over carrier waves) or any combination of these transmission media."

That is, the cited portion of Applicants' specification defines a **network** as a group of two or more devices interconnected by one or more segments of transmission media. This portion of the specification does not even mention any computer-readable media.

It is unclear to Applicants how the Examiner is interpreting the above-quoted portion of Applicants' specification to define a computer-readable medium as a transmission medium. **Applicants respectfully request that the Examiner provide clarification as to how this paragraph is being interpreted as defining the term "computer-readable medium."**

2. Claims 75-78

In Applicants' response mailed February 22, 2008, Applicants amended claim 75 to make even more explicit that the at least one storage device recited in claim 75 comprises at least one physical storage medium. This amendment was made because of the assertion in the Final Office Action that claim 75, though directed to a storage system, recites software *per se*. Though Applicants believe that claim 75 prior to any amendment recited a storage system having hardware components, Applicants amended claim 75 to make even more explicit that the storage system comprises hardware components and is therefore not directed to software *per se*.

It should be clear that claim 75, as amended, now recites a hardware component and is not directed to software *per se*.

Rejections Under 35 U.S.C. §103

The Office Action rejects claims 65-78 under 35 U.S.C. §103(a) as purportedly being obvious over Stuart (2005/0055519) in view of Cossey (2005/0070622). Applicants respectfully traverse this rejection.

Each of independent claims 65, 70, and 75 relates, in one way or another, to the retention period for a unit of content being stored in the content of the unit of content, the request to delete the unit of content identifying the unit of content using a content address generated, at least in part, from at least a portion of the unit of content, and the portion of the unit of content used in generating the content address including the retention period.

In Applicants' response of February 22, 2008, Applicants argued that Cossey does not disclose or suggest, "a retention period for a unit of content being stored in the content of the unit of

content, a request to delete the unit of content identifying the unit of content using a content address generated, at least in part, from at least a portion of the unit of content, or the portion of the unit of content used in generating the content address including the retention period."

In response, the Advisory Action states, "[t]his argument is considered moot because it is shown to be NOT commensurate in scope with the instant claim language which reads differently than the argument."

Applicants would like clarification as to why the Examiner believes that claim 65 does not recite these three limitations. In particular, Applicants believe claim 65 recites a retention period for a unit of content being stored in the content of the unit of content, as claim 65 states, "wherein a previously-defined retention period for the unit of content is stored in the unit of content." Applicants also believe that claim 65 requires that a request to delete the unit of content identify the unit of content using a content address generated, at least in part, from at least a portion of the unit of content, as claim 65 recites, "wherein the request identifies the unit of content using a content address generated, at least in part, from at least a portion of the content of the unit of content." Moreover, Applicants believe that claim 65 requires that the portion of the unit of content used in generating the content address include the retention period, as claim 65 recites, "where the at least a portion of the content of the unit of content includes the previously-defined retention period."

Applicants would also like clarification with respect to the statement in the Advisory Action that Cossey discloses a content address via box 425 in Figure 4. Each of claims 65, 70, and 75 recites a "content address generated, at least in part, from at least a portion of the content of the unit of content."

An example of content address is discussed in Applicants' specification at page 6, lines 20-27. As explained in this portion of the specification, a content address is an identifier for a unit of content that is used to identify a unit of content on a content addressable storage system. The content address is generated based upon the content of the unit of content it identifies. For example, the content address may be generated by applying a hash function to the data to be stored and the output of the hash function may be a content address that may be used in communication between the host and the storage system to refer to the data. It should be appreciated that the foregoing

discussion of an example of a content address is provided merely to assist the Examiner in appreciating various aspects of the present invention. However, not all of the description provided above necessarily applies to each of the independent claims pending in the application. Therefore, the Examiner is requested to not rely upon the foregoing summary of an example in interpreting any of the claims or in determining whether they patentably distinguish over the prior art of record, but rather is requested to rely only upon the language of the claims themselves and the arguments specifically related thereto provided below.

The Advisory Action states that box 425 in Figure 4, which is part of the display of a graphical user interface in which a user may input a number of days for items to remain in the "paste where" popup menu before being automatically removed, is a content address. The Advisory Action states that this so-called content address is generated based on the content of a content unit because, "when the number three is entered, it appears stored in at least one addressed location if not multiple locations, the screen memory to facilitate refresh or ongoing display, in a memory variable for comparison three days later."

Applicants understand the Examiner to be saying that when a user enters a number of days of in box 425 (whether it be 3, 4, 5, or any other number), that number is stored at some address in memory, and the Examiner considers this address to be a content address. Applicants do not disagree that, if a user were to enter a number into box 425 in Figure 4, that that number would be stored at some address in memory. However, Applicants do not understand how the Examiner is interpreting this address in memory to be "generated based on the content of the unit of content." That is, Applicants do not understand how the Examiner is interpreting the memory address at which the number entered into box 425 is stored is not generated based on the content of the unit of content, as Cossey does not disclose or suggest that the memory address at which the number is stored is in any way dependent on the number that is input into box 425. **Clarification is respectfully requested.**